| | | | |
|---|---|---|---|
| Section 7 | Student Policies | 10/24/97 | -Originated |
| Subject 7.1 | Students with Disabilities | 08/04/11 | -Reviewed w/changes |
| | | | -Reviewed w/o changes |
| **Policy 7.1.1** | **Students with Disabilities** | Human Resources | - Author |

# Students with Disabilities

## Definitions

**Disability**: According to the Americans with Disabilities Act of 1990 (ADA) and the Americans with Disabilities Act Amendments Act of 2009 (ADAAA), an individual has a disability if she/he has a *physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.* Although some disabilities (e.g., spinal cord injury or blindness) are readily observable, other disabilities are not as obvious. In the case of disabilities that are not as obvious, a qualified professional must perform a specialized assessment to identify the disability.

**Learning Disability**: (as defined by the Rehabilitation Services Administration) "A disorder in one or more of the central nervous system processes involved in perceiving, understanding, and/or using concepts through verbal (spoken) or written language or nonverbal means" (RSA PFD-85-7, 1985, p.2). Learning disabilities are commonly manifested as difficulties with reading, spelling, expressing ideas in writing, or solving mathematical problems.

**Essential Functions**: Basic activities (cognitive, psychomotor, and affective) that a student must be able to complete within each professional program of the various schools. A description of more specific essential functions for each of the programs within the schools may be obtained through the Admissions Director of each program.

**Reasonable Accommodations:** Any adjustment or modification that allows the qualified individual with a disability equal access to participation as a student in the various programs of the schools at the UTMB. Any reasonable accommodation should not cause undue hardship, financial or otherwise, to the academic/educational programs, schools, or the institution as a whole.

**Professional Diagnosticians:** An individual who possesses the knowledge, skills and professional credentials to assess and diagnose a specific disability and recommend reasonable accommodations based on a specific disability.

## Definitions, continued

**The American Disabilities (ADA) Panel: The ADA Panel** reviews disability documentation for the University provided by the student to verify a disability and the appropriateness of any particular accommodation.

**Coordinator of Services for Students with Disabilities (CSSD):** The Vice President for Student Services of UTMB or his/her designee will serve as the CSSD.

**Essential Functions Committee (EFC): The EFC** works closely with the ADA Coordinator and the CSSD with respect to the institution's overall compliance with the ADA.

**Institutional ADA Coordinator (IADAC): The IADAC is** appointed by the Director of Employee Relations and coordinates the ADA Panel for the UTMB Enterprise.

**School ADA Liaison (SAL): The SAL** is the administrative official responsible for student affairs or his/her designee in each school will also be the School ADA Liaison.

## Policy

It is the policy of the University to fully comply with the Rehabilitation Act, the ADA, and the ADAAA. The University will make a reasonable accommodation for a qualified student with a disability.

Applicants with disabilities will be evaluated on a case-by-case basis in accordance with the essential functions in effect for the specific program in the school to which the applicant is seeking placement. All students must possess not only the academic abilities, but also the physical and emotional capabilities required to undertake the full curriculum and achieve the levels of competence required by the faculty of the programs in question. Students who pose a direct threat to themselves or others are excluded from this policy.

**Note:** Although it is impossible to list all disabilities, the same non-discriminatory policies of access and accommodations apply. The following, however, are not considered to be disabilities under the ADA: homosexuality, bisexuality, transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or from other sexual disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use

## Policy, continued

disorders resulting from current illegal use of drugs (See ADA PL 101-34 Section 511, 42 USC 12111). Normal pregnancy and handedness are also excluded as disabilities under the ADA.

## Recruitment Materials

Recruitment materials for all schools should state the commitment of UTMB to equal opportunity for students with disabilities, as well as to students with gender, national origin, race, religion and sexual preference differences. The recruitment materials should also state that the academic program has Essential Functions that describe specific skills and outcomes that a student must be capable of performing to be successful in the program with or without reasonable accommodations. The Essential Functions of each program should be available to applicants on request. Recruitment materials should also indicate that an applicant with a documented disability could request reasonable accommodation, if needed, during the admissions process by seeking assistance from the CSSD. Recruitment materials should reflect that all medical and psychiatric information provided by the student pursuing an accommodation will be considered confidential. The name, address and telephone number of the CSSD and School Liaison should be listed on all recruitment material.

All application forms, application invitations, or other correspondence with applicants should include a statement of equal opportunity for students with disabilities. Letters of invitation to interviews should invite students to request any needed accommodations for the interview process. Academic programs will indicate the following in admission documents:

> *UTMB is committed to equal opportunity for students with disabilities. If you have a documented disability or would like to obtain information regarding services for students with disabilities at UTMB, please contact the Coordinator of Services for Students with Disabilities, Jamail Student Center Suite 2.100 or at ext. 21996. This information will be confidential; only those individuals responsible for assuring reasonable accommodations will be given this information.*

## Student Handbook and Bulletins

The school handbooks and bulletins of each UTMB School should contain the following:

## Student Handbook and Bulletins, continued

*UTMB is committed to equal opportunity for students with disabilities. Each academic program has Essential Functions that describe specific skills and outcomes that a student must be capable of performing to be successful in the program with or without reasonable accommodations. The Essential Functions of each program is available upon request. If you have a documented disability or would like to obtain information regarding services for students with disabilities at UTMB, please contact the Coordinator of Services for Students with Disabilities, Lee Hage Jamail Student Center Suite 2.100 or at ext. 21996. This information will be confidential; only those individuals responsible for assuring reasonable accommodations will be given this information.*

In addition, school handbooks should contain:

1. a precise description of the admission requirements and the ethical and academic performance standards of the school
2. a precise description of the academic standards, which define good standing in the academic program, as well as
3. policies that govern academic progress and graduation, and
4. the conditions for remediation and counseling
5. a description of the maximum amount of time that can be taken for completion of the academic program, and
6. the awarding of the appropriate degree.

## Essential Functions

The faculty of the Schools of Health Professions, Medicine, Nursing and Graduate School of Biomedical Science have developed Essential Functions Documents (EFDs). An EFD includes the minimum physical, cognitive, and behavioral standards expected of all students accepted in that academic program at UTMB. The Essential Functions are described as expected outcomes rather than in terms of the processes used to achieve the standard. The EFDs of each school will be annually reviewed an updated students at UTMB must be able to perform the following essential functions with or without accommodations. Each program may further elaborate on these general descriptions so that they are congruent with the professional roles toward which each program educates.

Students must be able to perform, with or without an accommodation, both sets of essential functions.

A). *Observation (to include the various sensory modalities):* Students must be able to accurately observe close at hand and at a distance to

## Essential Functions, continued

learn skills and to gather data (e.g., observe an instructor's movements, a patient's gait or verbal response, a chemical reaction, a microscopic image, etc.). Students must possess functional use of the senses that permit such observation.

A) *Communication:* Students must be able to communicate effectively and efficiently. Students must be able to process and comprehend written material.

B) *Psychomotor Skills:* Students must have sufficient motor capacities and mobility to execute the various tasks and physical maneuvers that are required within each program. Students must be able to display motor functioning sufficient to fulfill the professional roles toward which each program educates.

D) *Intellectual and Cognitive Abilities*: Students must be able to measure, calculate, reason, analyze, synthesize, integrate, remember and apply information. Creative problem solving and clinical reasoning require all of these intellectual abilities. In addition, specific programs.

E) *Professional and Social Attributes:* Students must exercise good judgment and promptly complete all responsibilities required of each program. They must develop mature, sensitive, and effective professional relationships with others. They must be able to tolerate taxing workloads and function effectively under stress. They must be able to adapt to changing environments, display flexibility, and function in the face of uncertainties and ambiguities. Concern for others, interpersonal competence and motivation are requisite for all programs

G) *Ethical Standards:* A student must demonstrate professional attitudes and behaviors and must perform in an ethical manner in dealings with others. All programs require personal integrity and the adherence to standards that reflect the values and functions of the profession. Many programs also require adherence to a code of ethics.

## Procedures

**Admission: Documentation and Progress**

All individuals who apply for admission to programs within UTMB

## Procedures, continued

schools, including persons with disabilities, must be able to perform the essential functions of that program either with or without reasonable accommodations. The specific essential functions for each program are clearly stated in the school bulletin, described during orientation, and as a link on the website.

Academic programs will include a procedure for use during the admission process whereby accepted applicants are asked whether or not they can meet the Essential Functions of the academic program with or without reasonable accommodations. Students receive information in the letter of acceptance as well as during orientation. Each accepted applicant signs a form indicating they have received this information. During orientation, accepted applicants have the burden of proof to demonstrate that they can meet the Essential Functions of the academic program.

Accepted applicants who indicate that they can meet the Essential Functions of the academic program, but need reasonable accommodations to do so will be referred to the School ADA Liaison.

The School ADA Liaison will contact the applicant to request documentation of the disability. Students are responsible for any and all costs associated with verifying their disability, i.e., if an assessment is deemed necessary, those costs lie with the student. The only exceptions to this obligation are those circumstances where the University requires a second professional opinion regarding the claimed disability; in those circumstances the University will pay for the second assessment. If a third assessment/opinion is needed, any costs associated will be divided equally between the student and UTMB.

## Responsibilities Student

Accepted Students: A student who has been accepted into a program within one of the schools at UTMB and plans to matriculate will:

- read the Essential Functions of the program in question. These will be contained in the acceptance letter from the Admissions Director (or designated administrative official) of each program. The student will sign and date the document that verifies his/her capacity to complete the essential functions, either with or without reasonable accommodations
- return the signed and dated document related to Essential Functions to the student affairs officer along with the response to the

**Responsibilities Student, continued**

program's acceptance letter. The signed and dated document will be placed in the student's file. If a student indicates a need for an accommodation, the Director of Admissions shall forward information to that student about the institutional policy on students with disabilities and about the need to contact the School ADA Liaison if that has not been done already send the appropriate School ADA Liaison a completed Formal Request for Accommodation due to a Disability and a request for documentation of disability from a qualified professional diagnostician. These materials should be provided to the School ADA Liaison as soon as possible but no later than 60 days after receipt of the acceptance letter (or within 30 working days after being diagnosed with a disability). This timeline ensures that these requests can be assessed by the ADA Coordinator and enhances the probability that accommodations will be dealt with in a timely manner. The documentation from the student and his or her professional diagnostician must specify the claimed disability, the identity of the professional individual who determined the disability status, how the status was determined, and recommend reasonable and specific ways to accommodate the student's disability within the context of the academic program.

Students who have already enrolled in an educational program at UTMB and who discover the presence of a disability after enrollment are both eligible and accountable for the provisions within this policy. Students who become aware of the presence of a disability requiring accommodation should contact the School ADA Liaison, CSSD and/ or IADAC.

Students who are diagnosed with a disability after matriculation, or students with a disability will follow the relevant procedures enumerated above and then:

1. review and adhere to the institutional policy on students with disabilities the School ADA Liaison will inform the student who is requesting an accommodation of the documentation and other requirements needed by UTMB to substantiate the presence of a qualified disability
2. inform the course (academic or clinical) instructor/director, if needed, (through the School ADA Liaison) of the authorization or approval for an accommodation at the start of a course/clinical experience, so that the student and course instructor/director can

## Responsibilities, Student, continued

coordinate the specified accommodation(s) notify the School ADA Liaison in writing within 24 hours of any problem/concern relating to the implementation of any approved accommodation(s) based on a disability. This time period allows the ADA Liaison to investigate and respond where appropriate

## Faculty

Faculty are responsible for implementing approved accommodations as described in the official letter sent by the SAL to the student, program director, and faculty advisor. . Such accommodations may include the provision of auxiliary aids, extra time for completion of tests, and other services.

No class review session or event should be scheduled in any location that limits appropriate physical and programmatic access.The School ADA Liaison can assist faculty with questions about accommodations.

Approved accommodations are not advantages but instead are a means of making sure every student has full access to educational programs. Faculty should refer all student questions about this policy or requests for accommodations to the School ADA Liaison, or Institutional ADA Coordinator (IADAC).

Each course director or instructor, whether based in an academic or clinical setting, will:

1. review the policy each year pertaining to students with disabilities
2. discuss implementation of approved accommodations with the student. (The student will have already been informed of the implementation of the accommodation recommended and approved by the EFC.) This should be done on the first day of class
3. discuss with the School ADA Liaison any concerns/questions related to the student's ability or to the approved accommodations

## Institutional ADA Coordinator (IADAC)

The Director of Employee Relations will appoint an individual to serve as Institutional ADA Coordinator (IADAC) for UTMB. This individual will report to the Director of Employee Relations. This individual will:

1. monitor all student accommodation activity for employees, faculty, and students
2. communicate changes in law or institutional policy to the School ADA Liaisons in concert with the School ADA Liaisons, and Coordinator of Services for Students with Disabilities (CSSD) about

**Institutional ADA Coordinator (IADAC), continued**

recommended accommodations for students with disabilities within 5 working days of their receipt

3. review this policy annually to ensure that it complies with law and institutional policies
4. issue an annual report on accommodations, and ensure that the accommodations can be made without undue hardship or financial strain upon the academic/educational programs, the school, or the institution as a whole

**Coordinator of Services for Students with Disabilities (CSSD)**

The Associate Vice President for Student Services of UTMB or his/her designee will serve as the CSSD. The responsibilities of this individual will be to:

1. work with the Institutional ADA Coordinator and School ADA Liaisons on requests for accommodations
2. review annually the performance of each school at UTMB and, jointly with the Institutional ADA Coordinator,
3. bring all issues related to students with disabilities to the attention of the associate vice president for student services (if not serving as the CSSD), the dean of the respective school, and the director of employee relations provide information related to the process and policy,
4. consult with the office of legal affairs and the office of employee relations relative to issues of policy and law
5. work with the Institutional ADA Coordinator to provide education about the requirements of the Institutional ADA to faculty, staff, students and administration
6. notify the Schools on an annual basis regarding yearly ADA training issues

**Essential Functions Committee**

The office of employee relations will appoint an Essential Functions Committee (EFC). The EFC will work closely with the ADA Coordinator and the CSSD with respect to the institution's overall compliance with the ADA. The Director of Employee Relations will elect the chair of the committee after consultation with the Chair of the Academic Education Council.

The purpose of the EFC will be to assist in informing and educating UTMB community regarding students with disabilities and to review and monitor the Essential Functions established by each of the schools for their respective programs. In some instances the EFC may be called upon to review conflicts between students with disabilities and academic/

**Essential Functions Committee, continued**

educational program directors. The EFC will report their findings and recommendations to the director of employee relations and the CSSD.

**School ADA Liaison (SAL)**

The administrative official responsible for student affairs or his/her designee in each school will also be the School ADA Liaison. Responsibilities of these individuals are to:

1. serve on the EFC
   serve as contact person relative to students with disabilities in their their specific school
2. develop special accommodations when necessary and approved
3. serve as faculty liaison
4. advise the CSSD and IADAC when problems (real and perceived) exist relative to issues pertaining to students with disabilities in the respective school
5. annually provide admissions committee members with information about the ADA as it relates to the admissions process, including what is permitted and what is precluded concerning interviewing and selecting of applicants with disabilities
6. coordinate an annual training session for course/clerkship directors pertaining to students with disabilities
8. ensure that students (regardless whether they are or are not disabled) who have been invited to matriculate into their respective school receive a copy of the Essential Functions and return the form indicating they can perform the Essential Functions with or without an accommodation;
9. and send any/all materials related to a student's disability to the CSSD and IADAC

Documentation in the student's official accommodation file in the employee relations department will include but is not limited to:

1. letters from the student specifying the disability and requesting accommodation(s) due the disability
2. the student’s evaluation for a disability from a qualified professional diagnostician
3. a written response from the university to the request for accommodation and
4. a record of the accommodation(s) made for the student

## ADA Panel

The Panel reviews disability documentation for the University provided by the student to verify a disability and the appropriateness of any particular accommodation. The Panel will:

1. review the documents submitted. If the panel feels the documentation presented by the student is inadequate, the SAL will send the student a letter detailing the information needed before a decision regarding the accommodation request can be reached. A request for additional information does not constitute a denial of the accommodation request. Failure to provide the requested information will result in no accommodation being provided. Review the professional's curriculum vitae to determine whether the professional has appropriate credentials to assess the described disability
2. verify that the documentation from the professional who assessed the student specifies the disability, described how it was assessed, and suggest accommodations, which meet the needs of the student and can be reasonably accommodated by the institution
3. respond to questions regarding assessment of disabilities and appropriateness of recommendations from the student with disabilities
4. provide a written decision (to be sent by the SAL) either approving or denying the request for accommodation if the Panel has questions regarding whether or not the student's disability is valid under law, a second opinion can be required by the Panel, and will be paid for by UTMB. The Director of the Office of employee relations will have the authority to make the final decision regarding whether to invoke this option.
5. if agreement cannot be reached by the Panel, the SAL will inform the student by letter of the process to follow when a second opinion is required. Failure of the student to submit to a second opinion will automatically result in a denial of the accommodation request if the second opinion is in conflict with the medical documentation presented by the student, a third and final opinion from a qualified professional will be obtained.
6. the selection of the qualified professional will be with the agreement of both parties and any costs will be equally divided
7. the third opinion/assessment will be the prevailing opinion/ assessment of whether or not the student has a qualifying disability maintain confidentiality about the student except as needed in privileged circumstances. If the student is considered to have a

## ADA Panel, continued

valid or qualifying disability, the School ADA Liaison will consult with the Panel and the faculty of the academic program in question to determine that the accommodation(s) sought is reasonable

8. if the panel cannot reach agreement about the accommodation the director of legal affairs, director of employee relations and diversity and the chair of the academic executive council or their representative will make the final determination.

## Grievance

A student with a qualified disability under the Americans with Disabilities Act of 1990 (ADA), revised 2008, and receiving Section 504 accommodations from the School of Medicine, the School of Nursing, the School of GSBS, and/or the School of Health Professions, must first contact the School ADA Liaison (SAL) once they believe they have been: denied reasonable and appropriate accommodations in the classroom environment and/or

1. discriminated against within the academic environment on the basis of disability and/or
2. retaliated against due to an academic accommodation.

After the student consults with the appropriate SAL, the SAL will discuss the issue with the faculty or staff member involved. If the student, SAL, and faculty and/or staff member are unable to resolve the conflict, the student has the option to file a written complaint.

The written complaint must include detailed and specific occurrences and dates of said complaint with any additional information to be included, such as e-mails, or graded items. The students will also state what steps he/she has taken to resolve the situation prior to this appeal letter. In addition, the student will state how he/she would like the conflict to be resolved.

The appeals letter is addressed to the ADA Appeals Committee. The members include the Student ADA Liaison (SAL), the Associate Vice President, University Student Services, who serves as the Coordinator of Services for Students with Disabilities (CSD), and the Institutional ADA Coordinator (IADAC).

Once the student's letter is received by the ADA Appeals Committee (SAL, CSD, and IADAC), and a release for information is signed by the student giving the ADA Appeals Committee permission to discuss his/her

## Grievance, continued

case and disability, the ADA Appeals Committee schedules a meeting. Prior to the meeting, the SAL, CSD, or IADAC may contact the student for further information as needed on a case-case basis. When deemed necessary, the committee may also consult with UTMB's Legal Affairs personnel for further guidance and support.

The ADA Appeals Committee meet to discuss the student's written complaint, investigate concerns, and work toward resolution. This meeting insures the best interest of the student and follows the prescriptive ADA laws which states that each qualified student with a disability receives reasonable and appropriate accommodation in the academic environment. Once the ADA Appeals Committee reaches a decision, the student will receive a written response with stated recommendations from the committee members. Once the ADA Appeals Committee's letter is received by the student, the ADA appeal process is complete.

If no resolution is possible or if the decision rendered is unsatisfactory to the student, the student may appeal to the Dean of the respective UTMB school. If the decision rendered by the Dean of the respective UTMB school is unsatisfactory to the student, the student may appeal to the president in writing within ten (10) business days. The president shall render a final decision.

## Accommodations

Students needing information about the physical accessibility of the facilities on the campus should contact the ADA Coordinator. Educational or programmatic accommodations are individually determined to fit the specific needs of a student with a disability. The School ADA Liaison within each school, the CSSD, and the institution's ADA Coordinator will confer to ensure that the student's requested accommodation is reasonable; that is, it does not alter the fundamental nature of the program and that it can be provided without undue hardship to the institution. If the SAC, CSSD and ADAC cannot reach an agreement, the Director of Legal Affairs, Director of employee relations and the Chair of the Academic Executive Committee or their representative will make the final determination about the accommodation.

Some general categories of accommodations and a rationale for each are presented below:

## Accommodations, continued

A. Accommodations that allow equal access to information presented in lecture format.

*Rationale:* A student with a disability should have equal access to information that an instructor provides. A student needs to be able to obtain this information through some modality that circumvents the limitation created by his/her disability.

B. Accommodations that allow equal access to reference materials required for class.

*Rationale:* A student with a disability should have equal access to books, periodicals, and other study materials that an instructor requires or assigns. A student needs to access this information through some modality that circumvents the limitation created by his/her disability.

C. Accommodations that allow equal opportunity to demonstrate what has been learned.

*Rationale:* A student with a disability should have equal opportunity to demonstrate that he/she has learned the instructional material, whether that material relates to classroom, laboratory, or clinical learning. If a disability limits the manner in which the student can communicate his/her knowledge, adjustments to the usual format should be made or other mechanisms, which facilitate this communication, should be made available.

## References

**Section 504, Rehabilitation Act of 1973**
**Americans with Disabilities Act of 1990**
**Family Educational Rights and Privacy Act of 1974**